

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSHUA SHUMAN , a minor by and	:	
through his mother and natural guardian	:	
TERESA SHERTZER, and TERESA	:	
SHERTZER , individually	:	CIVIL ACTION NO. 02-CV-3594
	:	
Plaintiffs,	:	
	:	
v.	:	(GARDNER)
	:	
PENN MANOR SCHOOL DISTRICT,	:	
PENN MANOR SCHOOL BOARD,	:	
C. WILLIS HERR,	:	
RICHARD L. FRERICHs,	:	
JEFFERY E. LYON,	:	
PATRICK T. KLINE,	:	
DONALD H. ANDERSON,	:	
H. THOMAS HERR,	:	
KELLY K. WITHUM,	:	
DONNA WERT,	:	
JEFFREY G. KREIDER,	:	
DOLORES WARFEL, and	:	
STEVE SKROCKI , each individually and	:	
as members/officers of the Penn Manor	:	
School Board,	:	
AND	:	
GARY B. CAMPBELL , individually and as	:	
Superintendent of the Penn Manor	:	
School District,	:	
AND	:	
DONALD STEWART , individually and as	:	
Acting Superintendent of the Penn Manor	:	
School District	:	
AND	:	
JANICE M. MINDISH , individually and as	:	
Principal of Penn Manor High School,	:	
AND	:	
BRIAN D. BADDICK , individually and as	:	
Assistant Principal of Penn Manor High	:	
School,	:	
AND	:	
PHILIP B. GALE , individually and as Dean	:	
of Students of Penn Manor High School,	:	
AND	:	
CAROLE FAY , individually and as a teacher	:	
and Agriculture Coordinator at Penn Manor	:	
High School	:	
	:	
Defendants.	:	

DEFENDANTS' MOTION FOR MENTAL EXAMINATION

AND NOW, come the Defendants, Penn Manor School District, Penn Manor School Board, C. Willis Herr, Richard L. Frerichs, Jeffrey E. Lyon, Patrick T. Kline, Donald H. Anderson, H. Thomas Herr, Kelly K. Withum, Donna Wert, Jeffrey G. Kreider, Dolores Warfel, and Steve Skrocki, each individually and as members/officers of the Penn Manor School Board, Gary B. Campbell, individually, and as Superintendent of the Penn Manor School District, Donald Stewart, individually and as Acting Superintendent of the Penn Manor School District, Janice M. Mindish, individually and as Principal of Penn Manor High School, Brian D. Baddick, individually and as Assistant Principal of Penn Manor High School, Philip Gale, individually and as Dean of Students of Penn Manor High School, and Carole Fay, individually and as a teacher and Agriculture Coordinator at Penn Manor High School (hereinafter collectively referred to as the "Defendants"), by and through their attorneys, Sweet, Stevens, Tucker & Katz LLP, to present the following Motion for Mental Examination:

1. The Defendants request an order compelling Plaintiff, Joshua Shuman, to appear at the office of Dr. Gerald Cooke, Clinical and Forensic Psychology, Licensed Psychologist, 4 East Germantown Pike, Plymouth Meeting, PA 19462, at a mutually agreeable date and time prior to the conclusion of discovery to submit to an examination or examinations, and interrogation or series of interrogations by Dr. Cooke to determine whether Plaintiff, Joshua Shuman is suffering from any neurosis and physical or mental impairment, including mental and emotional distress, mental health problems, depression, fear, anxiety, and inability to function normally in social situations, as referenced in Plaintiffs' Complaint, Paragraphs 47, 48, and 96.

2. Plaintiff's mental condition is at issue and Defendants have good cause for requesting a psychiatric examination.
 - a. The Plaintiff alleges that he suffers from a severe ongoing mental injury and psychiatric disorder. See e.g. Smith v. J.I. Case Corp., 163 F.R.D. 229, 230 (E.D. Pa. 1995).
 - b. Plaintiff has allegedly treated with a psychiatrist, psychologist, and/or other medical professionals, allegedly as a result of the conduct of Defendants. See, Complaint, ¶ 48, 49.
 - c. Plaintiff avers that the Defendants have caused "serious mental health problems, including but not limited to, depression, fear, anxieties, inability to function in social situations, both in relationships with adults and in relations with peers." See, Complaint, Paragraph 48.
 - d. As a result of the alleged physical and mental impairments, Plaintiff avers that he required "psychological treatment and incurred medical expenses." See Complaint, Paragraph 48.
 - e. Plaintiff has been treated by or examined by physicians of his own choosing. See, Complaint Paragraph 48.
 - f. In their Self-Executing Disclosure, Plaintiffs' identify a treating psychologist, Herbert R. Wood, M.S., as a witness.
 - g. Defendants incorporate herein the Affidavit of Jason R. Wiley, Esquire, attached as Exhibit "A" as additional support for the fact that Plaintiff, Joshua Shuman's mental condition is at issue and Defendants have good cause for requesting a psychiatric examination.

h. Plaintiff, Joshua Shuman, has placed in issue in this litigation the existence of his alleged mental disabilities, the extent of such mental disabilities, and whether such disabilities were caused by Defendants, and therefore, Defendants have good cause for requesting an examination.

3. Dr. Cooke is a suitably licensed and certified examiner. See Dr. Cooke's *curriculum vitae* which is attached hereto as Exhibit B, incorporated herein.

4. The examination requested by Defendants would neither embarrass, harass, nor cause any physical discomfort to Plaintiff, Joshua Shuman, other than the inconvenience to which he would be put in spending the necessary time at Dr. Cooke's office.

WHEREFORE, Defendants request the benefit of a medical opinion, as to the alleged neurosis and/ mental impairment(s), including mental and emotional distress, mental health problems, depression, fear, anxiety, and inability to function normally in social situations, of which Plaintiff, Joshua Shuman, complains, in order to properly prepare for trial and defend the claims asserted against them.

Respectfully submitted,

SWEET, STEVENS, TUCKER & KATZ LLP

Date: September 5, 2003

By: /s/ Jason R. Wiley
Ellis H. Katz, Esquire, Atty I.D. # 34835
Jason R. Wiley, Esquire, Atty I.D. #79874
331 Butler Avenue, P. O. Box 5069
New Britain, Pennsylvania 18901

Attorneys for Defendants